HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

WRIT APPEAL No.2196 of 2004

Between:

Medical Council of India, New Delhi,

rep. by its Secretary …Appellant.

AND

P.Prasada Rao & others. …Respondents.

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:: JUDGMENT ::

Counsel for the Appellants : Sri S.Niranjan Reddy

Counsel for Respondent No.1 : Sri C.S.K.V. Rama Murthy

Counsel for Respondent No.2 : Sri Movva Chandrasekhara Rao

Counsel for Respondent Nos.3 & 4: None.

1st MARCH 2006

Per G.S.Singhvi, C.J.

This appeal is directed against order dated 25-11-2004 passed by the learned Single Judge in Writ Petition No.14566 of 2004 whereby he directed the appellant-

Medical Council of India (for short, 'the MCI') to enter the name of the writ petitioner (respondent No.1 herein) in the Indian Medical Council Register subject to his fulfilling all other formalities.

For deciding the issue raised in the appeal, we may briefly notice the facts.

Respondent No.1 passed MBBS Course from Kakatiya Medical College, which is affiliated to N.T.R. University of Health Sciences. From 1-12-2001 to 30-11-2002, he did one year's apprenticeship in the same college. At the end of the term of apprenticeship, respondent No.1 applied to Andhra Pradesh Medical Council (for short 'the State Council') to enter his name in the Indian Medical Council Register. When his case was forwarded to the MCI, the latter vide it's letter dated 27.7.2003 permitted the State Council to grant provisional registration to respondent No.1 by condoning the delay in making application under Section 25 (2) of the Indian Medical Council Act, 1956 (for short 'the Act'). On receipt of the provisional registration certificate, respondent No.1 applied to the MCI for entering his name in the Register. The State Council recommended the case of respondent No.1 by pointing out that he had already completed the apprenticeship in a government hospital. However, the MCI rejected the prayer of respondent No.1 on the ground that he had not undergone the required apprenticeship after issuance of provisional registration certificate. Thereupon, respondent No.1 filed Writ Petition No.14566 of 2004.

Learned Single Judge referred to the provisions contained in Sections 15, 21 and 25 of the Act, referred to the judgments of the Supreme Court in **Medical Council of India v. State of Karnataka** and **Medical Council of India v. Sarang**, and concluded that by having undergone the apprenticeship for a period of one year in a government hospital, which is duly recognized by the MCI, respondent No.1 will be deemed to have become eligible for entering his name in the register maintained by the MCI. The learned Single Judge further held that the MCI cannot refuse registration of the petitioner's name (respondent No.1 herein) only on the ground that he did not undergo apprenticeship after grant of provisional registration in terms of Section 25(2) of the Act. The reasons assigned by the learned Single Judge for holding that the writ petitioner (respondent No.1) is not required to undergo one year's apprenticeship afresh are contained in paragraph 16 of the order challenged, which reads as under:-

> "**16**. The petitioner has undergone the same training, which a candidate undergoes after provisional registration. It cannot be said that he did not undergo the required training. If a candidate registers his name provisionally, he is entitled to practise medicine in the approved institution for the purpose of such training and for no other purpose. The provisional registration is a kind of immunity provided to a trainee from any civil or criminal liability in the event of any risk to any patient on account of treatment or operation undertaken by the trainee. During the training of the petitioner no such contingency arose and he successfully underwent the training. Except the provisional registration before the apprenticeship, the petitioner fulfilled all other requirements for the entry of his name in the Indian Medical Council Register. The respondents 3 and 4 conceded that the mistake of not insisting on provisional registration certificate crept at their instance. Insisting the petitioner to undergo apprenticeship once again is nothing but standing on technicalities and making the petitioner to repeat the course for no purpose after his successful completion of the course. The petitioner did not play any fraud and he did not avoid provisional registration intentionally. In the light of the circumstances explained by the petitioner and respondents 3 and 4, this can be treated as a special case and the first respondent can permit the petitioner to get his name entered in the relevant register, otherwise the refusal amounts to an action of arbitrariness unmindful of the realities."

We have heard learned counsel for the parties and gone through the relevant statutory provisions including Section 25 of the Act, which provides for grant of provisional registration. Sub- section (2) of Section 25 lays down that a person, who has passed the qualifying examination of any University or medical institution in India for grant of a recognised medical qualification, shall be entitled to be registered for the purpose of enabling him to be engaged in employment in a resident medical capacity in any approved institution, or in the medical service of armed forces of the Union and for no other purpose. In our opinion, this provision has nothing to do with the apprenticeship training which a candidate is required to undergo as a condition precedent to the award of Degree by a University established by law and for registration of his name by the MCI. This provision has been enacted by the legislature only for a limited purpose namely, 'by a candidate to be engaged in employment in a resident medical capacity in any approved institution, or armed forces of the Union'. Therefore, the view taken by the learned Single Judge that the provisional registration certificate granted to respondent No.1 was sufficient to entitle him to get his name registered with the MCI and that and he was not required to

again undergo one year's apprenticeship cannot be faulted. Rather, we are in complete agreement with the learned Single Judge that the decision of the MCI to insist on respondent No.1 to undergo one year's apprenticeship ignoring the fact that he had already undergone the requisite apprenticeship in a government college was arbitrary, un-reasonable and unjustified.

For the reasons mentioned above, the appeal is dismissed.

G.S. SINGHVI, C.J.

1st March, 2006.

G.BHAVANI PRASAD, J.

ARS/vtv